

contract, or fraudulent misrepresentation. This Court further granted Judgment against Defendants for the breach of the DTPA in the amount of \$286,661.76, representing three times Plaintiff's economic damages. This Court also ordered that Plaintiff is entitled to an award of his reasonable and necessary attorneys' fees and costs in an amount to be determined at trial as the prevailing party on a breach of contract claim, as well as under the DTPA. A true and correct copy of this December 7, 2020 Order is attached hereto as **Exhibit A**.

2. Following entry of the December 7, 2020 Order, Defendants requested a jury trial ostensibly on the only remaining issue of attorneys' fees.

3. After counsel advised that the Defendants were insolvent, Radenne filed his Application for Appointment of Receiver (the "Application"), which sought the appointment of a receiver as to all three Defendants. *See* Motion to Appoint Receiver filed on January 19, 2021. The Application came for hearing on February 22, 2021.

4. On the eve of the hearing, on February 20, 2021, Duntov filed for voluntary chapter 11 bankruptcy (the "Petition") in the U.S. Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court"). A true and correct copy of the Petition is attached hereto as **Exhibit B**. Importantly, only Duntov sought bankruptcy relief; Alan and Edward (collectively, the "Sevadjians") have not filed individual bankruptcy petitions.

5. Duntov's Petition gave rise to an automatic stay under 11 U.S.C. § 362(a) (the "Automatic Stay"). During the hearing on the Application, Defendants argued that the Automatic Stay applied not only to Duntov but also to non-debtors Alan and Edward, even though only Duntov filed the Petition. Radenne orally requested to sever his claims against the Sevadjians to proceed with the litigation, which was denied as a result of the Automatic Stay. Accordingly, the

Duntov 000610

proceedings in this above-captioned matter were abated regarding all three Defendants. *See* Order Abating and Administratively Closing Case, entered on February 26, 2021.

6. On March 10, 2021, Radenne sought relief from the Bankruptcy Court to, *inter alia*, proceed on his claims against the Sevajians in this Court via a Motion to Lift Stay. On April 19, 2021, the Bankruptcy Court entered an order regarding the Motion to Lift Stay (the “Order”). A true and correct copy of the Order is attached hereto as **Exhibit C**.

7. Among other things, the Order provides, that to the extent necessary, the Automatic Stay is terminated to permit Radenne to proceed on his claims against the Sevajians “in the State Court Case, including but not limited to the State Court’s exercise of its discretion to appoint a receiver over the Sevajians.” *See* Ex. C at 3.

8. Accordingly, the Automatic Stay does not prevent Radenne from proceeding with his claims against the Sevajians in this Court.

I. **PRAYER**

WHEREFORE, Plaintiff respectfully requests that this Court lift the abatement entered on February 26, 2021, sever Radenne’s claims against the Sevajians from those against the bankruptcy debtor Duntov, reset the trial of this matter and grant Plaintiff such other and further relief to which he may be justly entitled at law or in equity.

Duntov 000611

Dated: April 20, 2021

Respectfully submitted,

/s/ Darla J. Gabbitas

Darla J. Gabbitas

Texas State Bar No. 24089458

darla.gabbitas@wickphillips.com

Daniella G. Heringer

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Dallas, Texas 75204

214-692-6200

214-692-6255 (fax)

ATTORNEYS FOR FRANCK RADENNE

CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred with counsel for Mr. Cooley in an effort to resolve the issues contained in this motion without the necessity of Court intervention and opposing counsel has indicated that he does not oppose this motion. I hereby certify that I have conferred with counsel for respondents in an effort to resolve the issues contained in this motion without the necessity of Court intervention and opposing counsel has indicated that respondents are opposed to this motion.

Certified on April 20, 2021.

/s/ Darla J. Gabbitas

Darla J. Gabbitas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on all counsel of record in accordance with the Texas Rules of Civil Procedure on April 20, 2021.

/s/ Darla J. Gabbitas

Darla J. Gabbitas

Duntov 000612

EXHIBIT A

IT IS FURTHER ORDERED that as a matter of law, Plaintiff established that there is no genuine issue of material fact and Plaintiff is entitled to Judgment on his claim that Duntov Motor Company, LLC (“Duntov”), Alan Sevadjian (“Alan”) and Edward Sevadjian (“Edward,” and together with Duntov and Alan, “Defendants”) made fraudulent misrepresentations to Plaintiff that induced the transaction before the Court;

IT IS FURTHER ORDERED that Plaintiff is entitled to Judgment against Defendants for damages of \$95,553.92 for the breach of the warranty of title, the breach of contract or the fraudulent misrepresentation;

IT IS FURTHER ORDERED that Plaintiff is entitled to an award of his reasonable and necessary attorneys’ fees and costs in an amount to be determined at trial as the prevailing party on a breach of contract claim;

IT IS FURTHER ORDERED that as a matter of law, Plaintiff established that there is no genuine issue of material fact and Plaintiff is entitled to Judgment on his claim that Defendants employed deceptive trade practices in the transaction before the Court;

IT IS FURTHER ORDERED that Plaintiff is entitled to Judgment against Defendants for the breach of deceptive trade practices statute in the amount of \$286,661.76 (three times his economic damages), an award for his mental and emotion damages and his attorneys’ fees each in an amount to be determined at trial;

IT IS FURTHER ORDERED that as a matter of law, Plaintiff established that there is no genuine issue of material fact and Plaintiff is entitled to Judgment on his claim that Alan and Edward are the alter egos of Duntov and any judgment is entered against all three jointly and severally;

IT IS FURTHER ORDERED that Plaintiff's no evidence summary judgment on Defendants' counterclaim for breach of contract is granted and the claim is dismissed;

IT IS FURTHER ORDERED that Plaintiff is entitled to his reasonable and necessary attorneys' fees to be determined at trial as the prevailing party on the breach on contract claim;

IT IS FURTHER ORDERED that Plaintiff's no evidence summary judgment on Defendants' claim regarding a violation of Texas Rule of Civil Procedure 13 is granted and the claim is dismissed; and

IT IS FURTHER ORDERED that Plaintiff's no evidence summary judgment on Defendants' affirmative defenses of failure to mitigate, equitable estoppel or quasi-estoppel, laches, unclean hands, release, contributory negligence, ratification, unavoidable accident/act of God, statute of frauds, fraud, mutual mistake, impossibility of performance, modification, disclaimer of the warranty of title, voluntary payment, statute of limitations is **GRANTED**.

SIGNED this 7 day of December, 2020.



PRESIDING JUDGE

EXHIBIT B

Fill in this information to identify the case:

United States Bankruptcy Court for the:
NORTHERN DISTRICT OF TEXAS

Case number (if known): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, Instructions for Bankruptcy Forms for Non-

1. **Debtor's name** Duntov Motor Company LLC

2. **All other names debtor used in the last 8 years**

 Include any assumed names, trade names and ~~doing~~ *business as* names

3. **Debtor's federal Employer** 5 1 - 0 5 5 4 7 2 1

4. **Debtor's address**

Principal place of business <u>13906-C Denton Drive</u> <small>Number Street</small> <u>Farmers Branch TX 75234</u> <small>City State ZIP Code</small> <u>Dallas</u> <small>County</small>	Mailing address, if different from principal _____ <small>Number Street</small> _____ <small>P.O. Box</small> _____ _____ <small>City State ZIP Code</small> Location of principal assets, if different from principal place of business _____ <small>Number Street</small> _____ _____ <small>City State ZIP Code</small>
---	---

5. **Debtor's website (URL)** _____

6. **Type of debtor**

<input checked="" type="checkbox"/>	Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
<input type="checkbox"/>	Partnership (excluding LLP)
<input type="checkbox"/>	Other. Specify: _____

Duntov 000618

Debtor **Duntov Motor Company LLC**

Case number (if known) _____

7. Describe debtor's business**A. Check one:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
☐ Railroad (as defined in 11 U.S.C. § 101(44))
☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>3 3 6 3**8. Under which chapter of the Bankruptcy Code is the debtor filing?**

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V

Check one:

- ☐ Chapter 7
☐ Chapter 9
☒ Chapter 11.

Check all that apply:

- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625. If this sub-box is selected, attach the most
- ☒ The debtor is a debtor as defined in 11 U.S.C. § 1182(1), its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$7,500,000, AND IT CHOOSES TO PROCEED UNDER SUBCHAPTER V OF CHAPTER 11. If this sub-box is selected, attach the most recent balance
- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the Attachment to Voluntary Petition for Non-
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934

- ☐ Chapter 12

Duntov 000619

Debtor **Duntov Motor Company LLC**

Case number (if known) _____

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?☒ No☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYYDistrict _____ When _____ Case number _____
MM / DD / YYYYDistrict _____ When _____ Case number _____
MM / DD / YYYY

If more than 2 cases, attach a

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?☒ No☐ Yes. Debtor _____ Relationship _____District _____ When _____
MM / DD / YYYY

Case number, if known _____

List all cases. If more than 1,

Debtor _____ Relationship _____

District _____ When _____
MM / DD / YYYY

Case number, if known _____

11. Why is the case filed in this district?*Check all that apply:*☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days☐ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this**12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?**☒ No☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.**Why does the property need immediate attention? (Check all that apply.)**☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or☐ Other _____**Where is the property?**

Number _____ Street _____

City _____ State _____ ZIP Code _____

Is the property insured?☐ No☐ Yes. Insurance agency _____

Contact name _____

Phone _____

Duntov 000620

Debtor **Duntov Motor Company LLC**

Case number (if known)

Statistical and administrative information

- 13. Debtor's estimation of available funds** *Check one:*
☒ Funds will be available for distribution to unsecured creditors.
☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.
- 14. Estimated number of creditors**
☒ 1-49 ☐ 1,000-5,000 ☐ 25,001-50,000
☐ 50-99 ☐ 5,001-10,000 ☐ 50,001-100,000
☐ 100-199 ☐ 10,001-25,000 ☐ More than 100,000
☐ 200-999
- 15. Estimated assets**
☐ \$0-\$50,000 ☐ \$1,000,001-\$10 million ☐ \$500,000,001-\$1 billion
☐ \$50,001-\$100,000 ☐ \$10,000,001-\$50 million ☐ \$1,000,000,001-\$10 billion
☒ \$100,001-\$500,000 ☐ \$50,000,001-\$100 million ☐ \$10,000,000,001-\$50 billion
☐ \$500,001-\$1 million ☐ \$100,000,001-\$500 million ☐ More than \$50 billion
- 16. Estimated liabilities**
☐ \$0-\$50,000 ☐ \$1,000,001-\$10 million ☐ \$500,000,001-\$1 billion
☐ \$50,001-\$100,000 ☐ \$10,000,001-\$50 million ☐ \$1,000,000,001-\$10 billion
☐ \$100,001-\$500,000 ☐ \$50,000,001-\$100 million ☐ \$10,000,000,001-\$50 billion
☒ \$500,001-\$1 million ☐ \$100,000,001-\$500 million ☐ More than \$50 billion

Request for Relief, Declaration, and Signatures

WARNING Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to

- 17. Declaration and signature of authorized representative**
- ☒ The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in
 - ☒ I have been authorized to file this petition on behalf of the debtor.
 - ☒ I have examined the information in this petition and have a reasonable belief that the information is

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02/20/2021
 MM / DD / YYYY

X /s/ Edward Sevadjan

Signature of authorized representative of debtor

Edward Sevadjan

Printed name

Managing Member

Title

Duntov 000621

Debtor Duntov Motor Company LLC Case number (if known) _____

18. Signature of attorney **X** /s/ Hudson M. Jobe Date 02/20/2021
Signature of attorney for debtor MM / DD / YYYY

Hudson M. Jobe
Printed name

Quilling, Selander, Lownds, Winslett & Moser, P.C.
Firm name

2001 Bryan Street, Suite 1800
Number Street

Dallas **TX** **75201**
City State ZIP Code

(214) 871-2100
Contact phone Email address

24041189
Bar number State

Duntov 000622

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE: Duntov Motor Company LLC

CASE NO

CHAPTER 11

VERIFICATION OF CREDITOR MATRIX

The above named Debtor hereby verifies that the attached list of creditors is true and correct to the best of his/her knowledge.

Date 2/20/2021

Signature /s/ Edward Sevadjian
Edward Sevadjian
Managing Member

Date _____

Signature _____

Duntov 000623

Franck Radenne
c/o Darla J. Gabbitas
Wick Phillips Gould & Martin LP
3131 McKinney Ave., Suite 100

Hahn Law Firm, PC
c/o Derrick J. Hahn
900 Jackson St. , Suite 1800
Dallas, TX 75202

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

John Franklin Cooley, Jr.
c/o Anthony A. Petrocchi, PC
5127 Spyglass Dr.
Dallas, TX 75287

U.S. Attorney
Office of the U.S. Attorney
34d Floor, 1100 Commerce St.
Dallas, TX 75242

U.S. Trustee
1100 Commerce Street, Rm 9C60
Dallas, TX 75242

UPS Capital Business Credit
c/o Michael Menton
3333 Lee Parkway
Eighth Floor

EXHIBIT C



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 19, 2021

Mark X. Mullin
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE:

DUNTOV MOTOR COMPANY LLC,

DEBTOR.

§
§
§
§
§

CASE NO. 21-40348-mxm-11

Chapter 11

ORDER REGARDING
FRANCK RADENNE'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO
ALLOW THE STATE COURT TO LIQUIDATE ATTORNEYS' FEES AWARD OR,
ALTERNATIVELY, TO ALLOW REMOVAL OF STATE LAWSUIT TO
BANKRUPTCY COURT

CAME FOR CONSIDERATION on the *Motion for Relief from the Automatic Stay to Allow the State Court to Liquidate Attorneys' Fees Award or, Alternatively, to Allow Removal of State Lawsuit to Bankruptcy Court* (ECF No. 41, the "Motion") filed by Franck Radenne ("Radenne"). The Motion requests this Court (the "Bankruptcy Court") to terminate the automatic stay, to the extent necessary, to allow Radenne to (1) proceed on his state law claims against Duntov Motor Company, LLC ("Debtor"), Alan Sevadjian ("Alan") and Edward Sevadjian ("Edward," and together with Alan, the "Sevadjians") in *Alan Sevadjian v. Texas Department of*

ORDER GRANTING IN PART AND DENYING IN PART FRANCK RADENNE'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Duntov1000626

Motor Vehicles, consolidated with *Franck Radenne v. Duntov Motor Company et al.*, Cause No. DC-20-01121 (the “State Court Case”) by permitting the 14th Judicial District Court of the State of Texas in Dallas County (the “State Court”) to liquidate the attorneys’ fees award against Debtor and the Sevajians, or (2) remove the State Court Case to the Bankruptcy Court. Based upon the pleadings, prior record in this case, evidence, and arguments of counsel, the Bankruptcy Court finds and concludes that: (a) this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); (b) the Bankruptcy Court has constitutional authority to enter a final order regarding this matter; (c) venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (d) there is basis for the relief requested under sections 105(a) and 362(d) of title 11 of the United States Code and the Local Bankruptcy Rules for the Northern District of Texas; (e) proper and adequate notice of the Motion has been given and no other or further notice is necessary; and (f) good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Bankruptcy Court in connection with the Motion.

The Bankruptcy Court finds and concludes that termination of the automatic stay is not required to allow for liquidation of the claims against the Sevajians because, except for certain claims that are derivative of the Debtor’s rights, such as alter ego claims, and claims that seek to obtain possession of or from or exercise control over property of the Debtor’s bankruptcy estate (collectively, the “Stayed Claims”), the automatic stay imposed by 11 U.S.C. § 362(a) (the “Automatic Stay”) does not stay legal actions against the Sevajians. The Bankruptcy Court further finds and concludes that the Automatic Stay does not prohibit Radenne’s removal of the State Court Case to the Bankruptcy Court. Accordingly, Radenne does not require relief from the Automatic Stay to: (a) proceed against the Sevajians in State Court as requested in the Motion (provided that Radenne does not pursue the Stayed Claims); or (b) remove the State Court Action

to this Court. The Bankruptcy Court finds and concludes that sufficient cause exists to terminate the Automatic Stay to the extent necessary to allow the foregoing to proceed, and hereby terminates the Automatic Stay to the extent necessary to permit Radenne to proceed on his claims in the State Court Case, other than the Stayed Claims.

As to the Debtor, the Bankruptcy Court finds and concludes that cause does not exist at this time to terminate the Automatic Stay as to the Debtor and any claims against the Debtor, including the Stayed Claims. Accordingly, the Court will grant in part, and deny in part, the relief requested in the Motion.

IT IS THEREFORE ORDERED that to the extent necessary, the Automatic Stay is terminated to permit Franck Radenne to proceed on his claims, other than the Stayed Claims, against the Sevajians in the State Court Case, including but not limited to the State Court's exercise of its discretion to appoint a receiver over the Sevajians. IT IS FURTHER

ORDERED that to the extent necessary, the Automatic Stay is hereby modified to permit Radenne to remove the State Court Case to this Bankruptcy Court. IT IS FURTHER

ORDERED that the request to terminate the Automatic Stay to allow for the continuation of the State Court Case against the Debtor is denied without prejudice to the renewal of the Motion at any time, and the Motion shall be reset and heard simultaneously with any hearing on confirmation of a chapter 11 plan in this Bankruptcy Case. IT IS FURTHER

ORDERED that to the extent this order is an order granting the Motion, the stay provided by Bankruptcy Rule 4001(a)(3) is waived and this order is effective immediately upon entry.

END OF ORDER

PREPARED AND SUBMITTED BY:

/s/ Scott D. Lawrence

Jason M. Rudd, Tex. Bar No. 24028786
Darla J. Gabbitas, Tex. Bar No. 24089458
Scott D. Lawrence, Tex. Bar No. 24087896
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scott.lawrence@wickphillips.com
daniella.heringer@wickphillips.com

COUNSEL FOR FRANCK RADENNE

AGREED AS TO FORM ONLY:

/s/ Hudson M. Jobe (with permission)

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